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WELSH STATUTORY INSTRUMENTS

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**2017 No. 214 (W. 58)**

**SOCIAL CARE, WALES**

**The Care and Support (Choice of Accommodation,  
Charging and Financial Assessment) (Miscellaneous  
Amendments) (Wales) Regulations 2017**

<i>Made</i>	- - - -	<i>27 February 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>28 February 2017</i>
<i>Coming into force</i>	- -	<i>10 April 2017</i>

The Welsh Ministers, in exercise of the powers conferred by sections 50, 52, 53(3), 57, 61, 64, 66, 67 and 196(2)(c) of the Social Services and Well-being (Wales) Act 2014<sup>(1)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.

(2) These Regulations come into force on 10 April 2017 and apply in relation to Wales.

**Amendments to the Care and Support (Choice of Accommodation) (Wales) Regulations 2015**

2. The Care and Support (Choice of Accommodation) (Wales) Regulations 2015<sup>(2)</sup> are amended as follows—

(a) in regulation 1(3) in the appropriate place insert the following—

““short term” (“*byrdymor*”) means a period not exceeding 8 weeks.”;

(b) in regulation 2(a) after “Kingdom” insert “which is not short term”.

**Amendments to the Care and Support (Charging) (Wales) Regulations 2015**

3. The Care and Support (Charging) (Wales) Regulations 2015<sup>(3)</sup> are amended as follows—

(a) in regulation 1(4)—

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(1) 2014 anaw 4.

(2) S.I. 2015/1840 (W. 268).

(3) S.I. 2015/1843 (W. 271).

- (i) omit the definition of “capital limit”;
- (ii) in the appropriate place insert the following—
  - ““relevant capital limit” (*“terfyn cyfalaf perthnasol”*) means the maximum amount of capital, assessed in accordance with the Financial Assessment Regulations, which a chargeable person may have depending on whether their need is for care and support which is residential or non-residential, above which that person will be required, in accordance with regulation 11 to meet the standard charge in full.”;
- (iii) in the definition of “financial limit” for “capital limit” substitute “relevant capital limit”;
- (b) in regulation 7(1) for “£60” substitute “£70”;
- (c) in regulation 8(3)(d) for “(capital limit)” substitute “(relevant capital limit)”;
- (d) in regulation 9(1) for “non-residential” substitute “residential”;
- (e) in regulation 11 (capital limit)—
  - (i) in paragraph (1) for “capital limit” substitute “relevant capital limit”;
  - (ii) for paragraph (2) substitute—
    - “(2) The following are the financial limits for the purposes of section 66(5) of the Act—
    - (a) the relevant capital limit for the purposes of residential care is £30,000;
    - (b) the relevant capital limit for the purposes of non-residential care is £24,000.”;
  - (iii) in paragraph (3) for “capital limit” substitute “relevant capital limit”;
  - (iv) in the heading of regulation 11 for “Capital limit” substitute “Relevant capital limit”;
- (f) in regulation 13 (minimum income amount where a person is provided with accommodation in a care home), for “£26.50” substitute “£27.50”;
- (g) in regulation 15 (revised determination), for paragraph (2) substitute—
  - “(2) Where a local authority makes a further determination of A’s ability to pay a charge in accordance with this regulation—
  - (a) it must provide A with a statement of the revised determination; and
  - (b) it must reimburse A for any overcharge for care and support which was provided or arranged before the revised determination; or
  - (c) it may require A to pay any additional charge for care and support which was provided or arranged before the revised determination.”;
- (h) in regulation 22(1) for “£60” substitute “£70”;
- (i) in regulation 23(3)(d) for “(capital limit)” substitute “(relevant capital limit)”;
- (j) in regulation 26 (capital limits-direct payments)—
  - (i) in paragraphs (1) and (2) for “capital limit” substitute “relevant capital limit”;
  - (ii) in the heading of regulation 26 for “Capital limit-direct payments” substitute “Relevant capital limit – direct payments”;
- (k) in regulation 28 (minimum income amount where a person is provided with accommodation in a care home) for “£26.50” substitute “£27.50”;
- (l) in regulation 30 (revised determination – direct payments) for paragraph (2) substitute—

“(2) Where a local authority makes a further determination of B’s ability to pay a contribution or reimbursement in accordance with this regulation—

- (a) it must provide B with a statement of the revised determination; and
- (b) it must reimburse B for any overcharge of a contribution or reimbursement made before the revised determination; or
- (c) it may require B to pay any additional contribution or reimbursement in relation to any payments made before the revised determination.”

#### **Amendment to the Care and Support (Financial Assessment) (Wales) Regulations 2015**

4. Part 1 (sums to be disregarded) of Schedule 1 (sums to be disregarded in the calculation of income) to the Care and Support (Financial Assessment) (Wales) Regulations 2015(4) is amended as follows—

(a) for paragraph 16 substitute—

“**16.** Any amount which would be disregarded under paragraph 16 of Schedule 9 to the Income Support Regulations (specified pensions) save for paragraph 16(a) and (cc), but as if the reference in paragraph 16 of that Schedule to paragraphs 36 and 37 of Schedule 9 to the Income Support Regulations were a reference to paragraph 46 of this Schedule.”;

(b) after paragraph 16 insert—

“**16A.** Any payment received under the War Disablement Pension.”

*Rebecca Evans*  
Minister for Social Services and Public Health  
under authority of the Cabinet Secretary for  
Health, Well-being and Sport, one of the Welsh  
Ministers

27 February 2017

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend various Regulations made under Parts 4 and 5 of the Social Services and Well-being (Wales) Act 2014 (“the Act”).

Regulation 2 amends regulation 2 of the Care and Support (Choice of Accommodation) (Wales) Regulations 2015 to make it clear that the local authority’s duty to provide choice of accommodation does not apply where a person’s need for the provision of accommodation is short term. A definition of “short term” is then inserted in regulation 1(3) as meaning a period not exceeding 8 weeks.

Regulation 3 amends the Care and Support (Charging) (Wales) Regulations 2015. Paragraphs (b) and (h) amend the amount of the maximum weekly charge for non-residential care and support. This has been revised from £60 to £70. Paragraph (d) corrects a drafting error to make it clear that regulation 9 applies in relation to the charges for residential care and support. Paragraph (e) amends regulation 11 to establish two different capital limits – one that will apply to charging for residential care which will increase to £30,000 and one that will apply to charging for non-residential care which will be maintained at the current level of £24,000. Paragraph (j) makes a consequential amendment to regulation 26 to reflect the fact that there are two capital limits. Paragraphs (f) and (k) amend regulations 13 and 28 respectively to increase the weekly minimum income amount where a person is provided with accommodation in a care home from £26.50 to £27.50. Paragraph (g) amends regulation 15 to make it clear that following a revised financial assessment, a further statement must be issued to the care recipient and the revised charge becomes payable (and may be backdated) from the date when the circumstance that gave rise to the revised determination arose. Paragraph (l) makes the same amendment to regulation 30 in respect of revised determinations of direct payments.

Regulation 4 amends the Care and Support (Financial Assessment) (Wales) Regulations 2015. Schedule 1 makes provision in respect of the sums that are to be disregarded when a local authority is calculating income for the purposes of the Act. Paragraphs (a) and (b) substitute paragraph 16 so that a full disregard will apply to charging for residential and non-residential care and support in respect of sums received under the War Disablement Pension.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Health and Social Services Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.